

EXHIBIT B



U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

National Policy

ORDER
5190.6B
Change 1

Effective Date:
 November 22, 2021

SUBJ: Airport Compliance Manual

1. Purpose

The Airport Compliance Manual provides guidance to FAA employees on the implementation of the FAA's airport compliance program. Under the program, the FAA has the responsibility to assure airport sponsors comply with certain obligations that arise from FAA grant agreements and from deeds of property conveyance for airport use.

2. Distribution

The Airport Compliance Manual is located on the FAA Office of Airports website where it is available to all interested parties. *See:*

https://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/

3. Cancellation

This Order cancels and replaces the following chapters of the Airport Compliance Manual:

Chapter 1, Scope and Authority
 Chapter 9, Unjust Discrimination Between Aeronautical Users
 Chapter 10, Reasonable Commercial Minimum Standards
 Chapter 11, Self-Service
 Chapter 23, Reversions of Airport Property

4. Explanation of Changes

Since 2009, there have been changes to the laws and policies relating to the Federal obligations of airport sponsors and revisions to the procedures for investigating and resolving complaints that allege noncompliance. To incorporate any changes and provide the most useful and current program guidance to FAA employees, the Office of Airport Compliance and Management Analysis is undertaking a review of the Order and will publish updates as the chapter reviews are completed.

The Office of Airport Compliance and Management Analysis is issuing Change 1 to the Airport Compliance Manual to address the following:

- After review of public comments offered on the 2009 update, and subsequent experience with using Order 5190.6B as guidance for the airport compliance program, the FAA is updating Chapters 1, 9, 10, 11 and 23 of the Order.
- Most of the changes are editorial, based on suggestions in the public comments or recommendations from FAA staff for more effective ways of expressing policy guidance. In applicable sections of the Order, the revised chapters:

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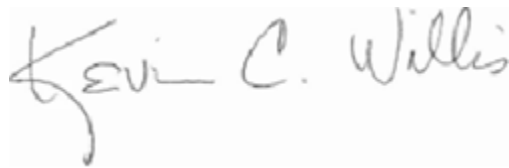
- Add updated references to other FAA guidance documents on the same subject where applicable.
- Update references to Light Sport Aircraft (LSA) and experimental aircraft to reflect current policy and categories of FAA certificates.
- Add specific references to ethanol-free automotive gasoline.
- Includes citations to Part 16 determinations relating to certain policy statements.
- In other cases, the Order has been updated to reflect policy changes adopted by the agency since 2009 to remain current with Federal statutes.
- When the FAA revises its policy on a specific compliance issue, or issues a new policy statement to clarify the agency position on an issue, the agency will issue a separate policy statement after public notice and comment.
- Edits and additions to the revised chapters are intended to provide accurate and useful guidance on airport compliance policy for FAA Airports staff, and not to adopt significant changes in compliance policy. As chapters are revised, a summary of the changes will be posted on the FAA website.
- Edits to Chapter 1, *Scope and Authority*, include:
 - Editorial changes;
 - Updated NPIAS information for airports by category and role;
 - Reference to special funding programs authorized by Congress to provide federal grants to airports for a specific purpose such as economic development or recovery (e.g., American Economic Recovery and Reinvestment Act of 2009 (ARRA); Coronavirus Aid, Relief, and Economic Security Act (CARES);
 - Reference to The FAA Reauthorization Act of 2018 (Pub. L. 115-254), Section 163(a) which narrows the scope of the FAA's authority over airport land uses by generally prohibiting the FAA from directly or indirectly regulating airport land (Section 163(a) will be more fully discussed in a future update to the Order).
- Edits to Chapter 9, *Unjust Discrimination Between Aeronautical Users*, include:
 - Section 9.2 –New brief discussion of airline incentive programs;
 - Section 9.6 – Expands the discussion of commercial minimum standards;
 - Section 9.7 –Guidance on leasing of general aviation apron constructed with Federal assistance (based on language in Order 5190.6A but not included in 5910.6B);
 - Section 9.8 – Retitle to paragraph 9.8.d. as “Air Carrier Accommodation.”
- Edits to Chapter 10, *Reasonable Commercial Minimum Standards*, include:
 - Section 10.5 –Guidance on availability of automotive gasoline;
 - Section 10.5 –Guidance on minimum standards for Specialized Aviation Service Operators;
 - Section 10.6 –Revised language to reflect recent policy changes regarding services provided by flying clubs (81 FR 13719; March 15, 2016);
 - Section 10.7—New section (10.7) discussing illegal air charters.

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- Edits to Chapter 11, *Self-Service*, include:
 - Section 11.2 – Clarification that activities covered by the right to self-service, as well as the airport sponsor's ability to impose reasonable safety regulations, on self-servicing;
 - Section 11.3 – Detailed descriptions of the maintenance activities included in self-service, including maintenance performed on LSA and experimental aircraft, and maintenance performed by the holders of certain FAA certificates;
 - Section 11.4 –Guidance regarding when contracting to a third party is and is not permitted.
- Edits to Chapter 23, *Reversions of Airport Property*, include:
 - Organizational references update and adds an example of a reversion of airport property;
 - Identifies requires of environmental due diligence prior to property reversion;
 - Other limited editorial changes.

In addition to updating the five chapters listed above, the agency has revised several of the appendices to Order 5190.6B. The changes update citations and documents to provide current versions, delete obsolete references, and include more recent sample documents. Also, Appendices E-1, F-3, G-1, and S have been removed.

A handwritten signature in black ink that reads "Kevin C. Willis". The signature is written in a cursive, slightly slanted style.

Kevin Willis

Director

Airport Compliance and Management Analysis (ACO-1)

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b. Interpretations of Aeronautical Activity.

(1). Airfield. When approving grants for airport development, the CAB (and later the FAA) interpreted the exclusive rights prohibition principally in terms of the airfield. Accordingly, they considered activities that used the airfield (*e.g.*, air carriers, flight schools, and charter service) as subject to the prohibition. All nonaeronautical activities, such as restaurants and other terminal concessions, ground transportation, and car rentals are excluded from the prohibition.

(2). Inclusion of Aeronautical Supporting Activities. In 1962, the FAA published its *Policy on Exclusive Rights* in the *Federal Register*. The policy extended the prohibition to all aeronautical activities. Such aeronautical activities are those that involve, make possible, or are required for the operation of aircraft; or that contribute to, or are required for the safety of such operations.²⁰ The FAA further clarified the application of the prohibition in FAA [Order 5190.1, *Exclusive Rights*](#), on October 12, 1965.

c. Current Agency Policy. The FAA has taken the position that the existence of an exclusive right to conduct any aeronautical activity at an airport limits the usefulness of the airport and deprives the public of the benefits of competitive enterprise. The FAA considers it inappropriate to provide federal funds for improvements to airports where the benefits of such improvements will not be fully realized by all users due to the inherent restrictions of an exclusive monopoly on aeronautical activities.

Advisory Circular (AC) [150/5190-6, *Exclusive Rights at Federally Obligated Airports*](#), provides airport sponsors with the information they need to comply with their federal obligation regarding exclusive rights.

d. Effect of the Prohibition on Airport Improvement Program (AIP) Grants. Federal statutory law prohibits sponsors from granting an exclusive right. Consequently, it does not matter how the sponsor granted the exclusive right (*e.g.*, express agreement, unreasonable minimum standards, action of a former sponsor, or other means). The FAA will not award a sponsor an [Airport Improvement Program](#) (AIP) grant until that exclusive right is removed from the sponsor's airport. The FAA may also take other actions to return the sponsor to compliance with its federal obligations.

Federal statutory law prohibits sponsors from granting an exclusive right. Consequently, it does not matter how the sponsor granted the exclusive right – express agreement, unreasonable minimum standards, action of a former sponsor, or other means.

e. Duration of Prohibition Against Exclusive Rights. Once federal funds have been expended at an airport, including through a surplus property conveyance, the exclusive rights prohibition is applicable to that airport for as long as it is operated as an airport. In other words, it

²⁰ [AC 150/5190-6](#), Appendix 1, § 1.1(a).